

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 262 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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MAHESHBHAI G BHARWADA

Versus

A'BAD MUNICIPAL COMMISSIONER

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Appearance:

MR VB GHARANIYA for Petitioner

M/S ANAND ADVOCATES for Respondent No. 1

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 24/06/97

ORAL JUDGEMENT

The petition, no doubt, gives an impression that the deceased mother of the petitioner who was an employee with the respondent-Municipal Corporation in one of its dispensaries/hospitals, is a conservancy staff. He would ordinarily be entitled as per the Central Office Circular No. 3843 dated 21.3.1987 for being considered for

appointment on compassionate ground. However, the application dated 3.1.1994 referred to Annexure.C page 10 is not the first application that he has preferred before the respondent-Corporation.

The mother Dahiben died on 22.7.1987 and on 28th February 1989, as per the file of the respondent Corporation, the petitioner had applied for appointment on compassionate ground and the said application was turned down on 16th July 1993, because, at that time, the father of the petitioner was employed with the State Government and was drawing salary and the income of the family was far in excess prescribed for the purpose of appointment on compassionate ground.

No doubt, from the original file, it does not appear whether the case of the petitioner was ever considered as per the 1987 Scheme referred to in Annexure.B, page 8. However, the Scheme having been come into operation prior to the death of the mother of the petitioner, his application having been considered on earlier occasion which fact is suppressed in the petition, and when in the year 1984, another attempt has also been made after almost ten years of the event of death, now to reopen the whole case for being considered under the said Scheme of 1987 does not appear to be proper.

It is a moot question whether the said Scheme of 1987 meant for health conservancy employees is applicable in the case of the petitioner.

The deceased mother of the petitioner was working in a hospital. The Corporation has uniformly not applied the Scheme of 1987 to the employees of the hospital. By conservancy staff, the understanding of the Municipality is that, only those persons working as such in cleaning public street, drainage etc. alone are considered. In other words, the Corporation is following the other policy as evolved by the Government from time to time for considering the case of compassionate appointment in case of hospital staff and that is how the case of the petitioner has been dealt with for more than one occasion.

However, if the petitioner so desires, he may make a representation before the Corporation authorities on the basis that the petitioner's mother who was working in the hospital as "Mahetrani" was nothing else, but the post of the conservancy staff. On receipt of the representation on the aforesaid line, the Corporation

authorities shall examine whether the case of the petitioner can be treated under the Scheme of 1987 or not. So far as the present petition is concerned, nothing can be done and, therefore, it is rejected. Rule is discharged.

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